

FILED  
Clerk  
District Court

AUG 11 2005

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS**

**ELENITA A. SANTOS and  
ANGEL C. SANTOS,**

**Plaintiffs,**

**vs.**

**HONGKONG ENTERTAINMENT  
(OVERSEAS) INVESTMENTS LIMITED )  
dba TINIAN DYNASTY HOTEL & )  
CASINO, and CENTURY INSURANCE )  
CO. LIMITED, )**

**Defendants.**

**) CIVIL CASE NO. 04-0030**

**)  
)  
) PLAINTIFFS' SECOND AMENDED  
) COMPLAINT**

Plaintiffs Elenita A. Santos and Angel C. Santos, by and through counsel, hereby allege,  
as follows:

**JURISDICTION AND VENUE**

1. This Court has diversity jurisdiction under 28 U.S.C. Section 1332 as this matter involves citizens of different states and the matter at issue is more than \$75,000.00. The Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

ORIGINAL



1 Islands. Upon information and belief, Century Insurance's principal place of business is within  
2 the Commonwealth.

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5 **FACTS**  
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7  
8 8. At all times mentioned in this Complaint, Tinian Dynasty, located in Tinian,  
9 was owned, managed and /or operated by Hongkong Entertainment (Overseas) Investments  
10 Limited.

11  
12 9. Defendant Tinian Dynasty invited the general public, including Mrs. Santos, to  
13 enter the premises of the hotel to walk about, stay in the hotel rooms, eat in the restaurant, or  
14 play in the casino.

15  
16 10. On or about January 30, 2004, Mrs. Santos was a guest at the Tinian Dynasty  
17 and was walking down the stairs in the hotel near the swimming pool (the "stairs").

18  
19 11. As Mrs. Santos was descending the stairs, she slipped and fell down.

20  
21 12. The fall caused Mrs. Santos to suffer severe injuries, including, without  
22 limitation, a fractured thigh bone, sprained ankle, and severe pain. Mrs. Santos also suffered  
23 and continues to suffer tremendous mental pain and anguish.

24  
25 13. Mrs. Santos was transported to the Tinian Health Center by ambulance where  
26 she was examined and x-rayed. Mrs. Santos was then transported by helicopter to Saipan, and  
27 then by ambulance to the Commonwealth Health Center ("CHC").  
28

1           14. At this time, the CHC physicians discovered, among other injuries, that her right  
2 femur was fractured and that the severity of the injury necessitated surgery.

3  
4           15. After surgery, Mrs. Santos suffered additional complications resulting from the  
5 surgery.

6  
7           16. Mrs. Santos' injuries required physical therapy and medical attention for several  
8 months.

9  
10                                   **FIRST CAUSE OF ACTION**  
11                                   **NEGLIGENCE**

12  
13           17. Plaintiffs repeat and reallege, and incorporate herein by reference, each and  
14 every allegation contained in paragraph 8 through 16.

15  
16           18. Defendant Tinian Dynasty had a duty to maintain its premises in a reasonably  
17 safe condition that would allow people including, without limitation, hotel guests and other  
18 invitees to safely walk about the premises of the hotel.

19  
20           19. Defendant Tinian Dynasty breached this duty by, *inter alia*:

21                   a) Negligently and carelessly failing to install appropriate hand rails and/or  
22 other appropriate safety devices for the stairs with a wanton and reckless disregard for the  
23 safety of people using the stairs including Mrs. Santos;

24                   b) Failing to warn Mrs. Santos of the danger presented by the unsafe  
25 condition of the stairs;

26                   c) Failing to install a nonslip surface on the stairs; and/or  
27  
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1                   d)     Failing to clean, dry and/or otherwise maintain the stairs in a reasonably  
2 safe condition.

3  
4                   20.     Defendant Tinian Dynasty also failed to otherwise exercise due care with  
5 respect to the matters alleged in this Complaint.

6  
7                   21.     Defendant Tinian Dynasty's breach of the duty owed to Mrs. Santos caused the  
8 stairs to be unreasonably dangerous for her use.

9  
10                  22.     As a direct and proximate result of the negligence of the Defendant Tinian  
11 Dynasty as set forth above, Mrs. Santos slipped and fell while descending the stairs.

12  
13                  23.     As a further direct and proximate result of the negligence of Defendant as set  
14 forth above, Mrs. Santos was severely injured and her general health impaired. The injuries  
15 caused by the fall, and the surgery and complications arising therefrom caused Mrs. Santos to  
16 suffer tremendous mental pain and anguish, as well as suffering a severe shock to her entire  
17 system. As a further result of her injuries, Mrs. Santos has been and is now and will be in the  
18 future prevented from participating in and enjoying the normal pleasures of life to which she  
19 was formerly accustomed. Moreover, Mrs. Santos presently and in the future will continue to  
20 suffer physical pain and mental anguish and will continue to incur medical, hospital and related  
21 expenses.

22  
23                  24.     By failing to make sure the stairs complied with the CNMI Building Code or  
24 otherwise were safe for guests such as Mrs. Santos, Defendant Tinian Dynasty acted with a  
25 wanton or reckless disregard for the safety and well-being of its guests including Plaintiff Mrs.  
26 Santos.

1           25. Accordingly, Mrs. Santos has sustained and incurred damages in an amount  
2 according to proof at trial.

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4  
5                           **SECOND CAUSE OF ACTION**  
6                           **DIRECT ACTION**  
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8           26. Plaintiffs repeat and reallege, and incorporate herein by reference, each and  
9 every allegation contained in paragraph 8 through 16, and 18 through 25 above.

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11           27. At all times mentioned herein, Defendant Tinian Dynasty was insured by a  
12 liability insurance policy issued by Defendant Century Insurance Co. Ltd., covering liability  
13 and damages caused by its negligence and that of its employees.

14  
15           28. Pursuant to the coverage contained in the said policy and pursuant to the laws of  
16 the Commonwealth of the Northern Mariana Islands, Plaintiffs brings this direct action against  
17 Defendant Century Insurance Co., Ltd., for Plaintiffs' damages in an amount according to  
18 proof at trial.

19  
20                           **THIRD CAUSE OF ACTION**  
21                           **LOSS OF CONSORTIUM**  
22

23           29. Plaintiffs repeat and reallege, and incorporate herein by reference, each and  
24 every allegation contained in paragraphs 8 through 16, 18 through 24 and 26 through 27 above.

25           30. Before suffering the above-described injuries, Mrs. Santos was able to, and did,  
26 perform all the duties of a wife, including in assisting in maintain the home, and providing  
27 love, companionship, affection, society, sexual relations, moral support and solace to Plaintiff  
28 Mr. Santos.

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2  
3 31. As a direct and proximate result of the above-described injuries, Mrs. Santos has  
4 been unable to perform the duties of a wife, in that she can no longer assist with the housework,  
5 provide love and physical and emotional affection, participate in family, recreational or social  
6 activities with Mr. Santos.

7  
8 32. Due to the nature and extent of the injuries sustained by Mrs. Santos, and the  
9 severe physical and psychological strains they cause her, Mrs. Santos is no longer able to  
10 provide Mr. Santos with love, companionship, affection, society, moral support and solace.

11  
12 33. Because of the above-described injuries, Mrs. Santos will be unable to perform  
13 these duties in the future. Mr. Santos is therefore deprived and will be permanently deprived of  
14 his wife's consortium, all to Mr. Santos' damage in a total amount to be established by proof at  
15 trial.

16 **PRAYER**

17  
18 WHEREFORE, Plaintiffs pray for relief as follows:

- 19  
20 i. For general, special, statutory and punitive damages in an amount to be  
21 proven at trial.  
22 ii. For prejudgment interest as allowed by law.  
23 ii. For attorney fees and costs of suit.  
24 iv. For such other and further relief as the Court may deem appropriate.  
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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial with respect to all issues so triable.

Dated: August 11, 2005.

O'CONNOR BERMAN DOTTS & BANES  
Attorney for Plaintiffs Elenita A. Santos and  
Angel C. Santos

By: 

David G. Banes